

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

In Re:

LLS AMERICA, LLC,

Debtor,

BRUCE P. KRIEGMAN, solely in his
capacity as court-appointed Chapter 11
Trustee for LLS America, LLC,

Plaintiff,

v.

MARTIN HORCICKA,

Defendant.

NO: CV-12-431-RMP

Bankr. Case No. 09-06194-PCW11

Adv. Proc. No. 11-80136

DEFAULT JUDGMENT

THIS MATTER came on consideration upon the Motion of Plaintiff for
Entry of Default and Judgment against Defendant Martin Horcicka, and it
appearing from the file and records of this Court in this cause that the default
judgment (Bkcy. Dkt. No. 14) entered by the Bankruptcy Court should be deemed

1 proposed findings of fact and conclusions of law, and that entering final default
2 judgment in conformity with the default judgment entered by the Bankruptcy Court
3 is appropriate,

4 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that the
5 Plaintiff, Bruce P. Kriegman, solely in his capacity as court-appointed Chapter 11
6 Trustee for LLS America, LLC, shall have a judgment against the Defendant, as
7 follows:

8 1. Monetary Judgment in the amount of CAD \$286,535.00, pursuant to 11
9 U.S.C. § 550 and RCW 19.40.071;

10 2. Transfers in the amount of CAD \$268,535.00 made to the Defendant
11 within four years prior to the Petition Filing Date are hereby avoided and Plaintiff
12 may take all necessary action to preserve the same, pursuant to 11 U.S.C. §§ 544,
13 550, 551 and 548(a) and (b) and RCW 19.40.041(1) and (2) and RCW 19.40.071;

14 3. Transfers in the amount of CAD \$18,000.00 made to Defendant more than
15 four years prior to the Petition Filing Date are hereby avoided and Plaintiff may
16 take all necessary action to preserve the same, pursuant to 11 U.S.C. §§ 544, 550
17 and 551 and RCW 19.40.041(1) and 19.40.071;

18 4. All said transfers to Defendant are hereby set aside and Plaintiff shall be
19 entitled to recover the same, or the value thereof, from Defendant for the benefit of
20 the estate of LLS America, pursuant to 11 U.S.C. §§ 544, 550 and 551;

5. All proofs of claim of the Defendant which have been filed or brought or which may hereafter be filed or brought by, on behalf of, or for the benefit of any of the Defendant or their affiliated entities, against the Debtor's estate, in this bankruptcy or related bankruptcy proceedings, are hereby disallowed and subordinated to the monetary judgment granted herein and Defendant shall not be entitled to collect on his proof of claim (Claim No. 732-1) until the monetary judgment is satisfied by Defendant in full, pursuant to 11 U.S.C. §§ 502(d), 510(c)(1) and 105(a);

6. A constructive trust is hereby established over the proceeds of all transfers in favor of the Trustee for the benefit of the estate of LLS America; and

7. Plaintiff is hereby awarded costs (i.e. filing fees) in the amount of \$250.00 USD, for a total judgment of CAD \$286,535.00, plus \$250.00 USD, which shall bear interest equal to the weekly average of one-year constant maturity (nominal) treasury yield as published by the Federal Reserve System.

The District Court Clerk is directed to enter this Order, enter judgment as outlined above, and provide copies to counsel and Judge Patricia Williams.

DATED this 31st day of October 2012.

s/ Rosanna Malouf Peterson
ROSANNA MALOUF PETERSON
Chief United States District Court Judge